

REMARKS/ARGUMENTS

Claim 8 stands rejected under 35 U.S.C. §112, ¶2. Claim 8 has been amended, and it is respectfully submitted that the rejection under §112 is overcome.

Pending claims 8-12 and 36-38 stand rejected under 35 U.S.C. §102(b) over U.S. Patent No. 6,052,600 (Fette). Applicant respectfully traverses the rejection. Amended claim 8 is patentable over Fette as nowhere does Fette disclose automatically determining in the portable device if configuration of the device is desired based on detecting a malfunction of the device. Instead, the cited portions of Fette merely teach that a user may request updated configuration information. Such teaching does not disclose automatically determining if configuration is desired based on detection of a malfunction. This is especially so, as Fette merely discloses that when a malfunction is detected, its configuring method terminates. *E.g.*, FIG. 3, refs. 316 and 324, cited by the Office Action, p. 3. For at least this reason, claim 8 and claims 9-12 and 36-38 depending therefrom are patentable.

Pending claims 1-4, 6-7 and 32-34 stand rejected under 35 U.S.C. §103(a) over Fette in view of U.S. Patent No. 6,449,493 (Webster) and U.S. Patent No. 6,735,434 (Criss). As to claim 1, the Office Action concedes that Fette nowhere teaches or suggests a storage unit with first and second regions, in which the second, protected region includes a configuration application. Instead, the Office Action relies on Webster which discloses a permanent memory including multiple regions, all of which may be protected. However, the combination of Fette and Webster does not teach or suggest a single memory that includes both a protected region (*i.e.*, a first region in which the configuration application is stored) and a second region, into which configuration information may be written during operation. This is so, as Webster discloses that its memory is a permanent memory this is not written to during operation. For at least this reason, claims 1-4, 6-7 and 32-34 are patentable over the proposed combination.

Dependent claim 7 is further patentable, as nowhere does Fette or the other references teach or suggest determining whether restoration of a portable device to a prior operational state is desired. In this regard, the Office Action refers to Fette. However, the cited portion of Fette nowhere teaches or suggests determining whether restoration to a prior operational state is desired. Instead, as discussed above when the method of Fette determines that a problem exists, the method concludes. *E.g.*, Fette, col. 8, lns. 32-37; col. 9, lns. 14-19. For similar reasons dependent claim 32 is further patentable, as Fette nowhere determines whether configuration is desired by detecting a problem after an update.


Dependent claim 34 is patentable for the further reason that nowhere do the cited references teach or suggest verifying with a user that configuration is desired prior to the time the request for configuration information is made. Instead, in Fette the "records information" is approved (or not) by the user after it has been obtained.

Pending claims 13-18, 35 and 39 stand rejected under 35 U.S.C. §103(a) over Fette in view of Criss. Applicant respectfully traverses the rejection. As to claim 13, the Office Action concedes that Fette nowhere teaches or suggests receiving an indication from a base station that the base station detected a malfunction of a portable device. Instead, the Office Action purports to rely on Criss. However, nowhere does Criss teach or suggest detecting a malfunction of a portable device at a base station. Instead, Criss merely teaches that a base station may determine whether a mobile device is using an older version of operating software. This is far removed from any teaching or suggestion of detecting a malfunction in a mobile device. Accordingly, for at least this reason, pending claims 13-18, 35 and 39 are patentable over the proposed combination. For at least the same reasons, the rejection of claim 40 over Fette in view of Criss and in further view of Sharma is also overcome.

In view of these remarks, the application is now in condition for allowance and the Examiner's prompt action in accordance therewith is respectfully requested. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 20-1504.

Respectfully submitted,

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Mark J. Rozman
Registration No. 42,117
TROP, PRUNER & HU, P.C.
8554 Katy Freeway, Suite 100
Houston, Texas 77024-1805
(512) 418-9944 [Phone]
(713) 468-8883 [Fax]
Customer No.: 21906
Attorneys for Intel Corporation